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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by the International Federation of Human Rights Leagues, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[26 February 1998]

Situation of human rights in China

1. The International Federation of Human Rights (FIDH) and its partner organization Human Rights in China (HRIC) are extremely concerned about continuing systematic violations of human rights in the People's Republic of China. Authorities continue to impose tight restrictions on sensitive media reporting, on free expression more generally and on freedom of association and assembly. FIDH and HRIC believe that such limitations on fundamental rights contribute to growing social instability and hinder China's social and economic development. They deprive those who are excluded from the benefits of economic growth of the means to protect their basic right to subsistence. They also contradict provisions of the International Covenant on Economic, Social and Cultural Rights, which China signed in 1997. FIDH and HRIC believe that increasing respect for freedom of expression, association and assembly could help improve social order by creating better channels for the articulation of grievances and interests, in particular in the economic and social arena.

2. In defending China's human rights practices, the authorities of the People's Republic of China argue that they give priority to economic development rather than to civil and political rights. However the 1986 Declaration on the Right to Development clearly states that the enjoyment of certain human rights and fundamental freedoms cannot justify the denial of other human rights and fundamental freedoms. And no evidence has ever been presented as to how gross violations of human rights such as political and religious intolerance, arbitrary detention, or torture could possibly contribute to economic development. FIDH and HRIC strongly believe that such violations actually worsen social stability, as evidenced in the many reports of social unrest that have reached both organizations in 1997.

3. The rapid economic reforms and the official decision to close loss-making State firms have intensified problems such as unemployment, inadequate welfare provisions and corruption, leading to social disruption nationwide. In one such incident among many others, large-scale demonstrations broke out from mid-June to early July in Mianyang City (Sichuan Province), as several thousand laid-off workers appealed to the Government. They demanded payment of the welfare benefits to which they were legally entitled after their State-run textile factories had declared bankruptcy, but which they had not received because officials had reportedly embezzled the funds earmarked to pay them. In response, the People's Armed Police suppressed the protests and apprehended a number of demonstrators, while local authorities imposed a curfew and published an editorial in the local newspaper the Mianyang Daily, accusing hostile foreign and domestic forces, including the "Free Trade Union of China" and the "Liberal Democratic Party", of "stirring up" the protests. Sichuan dissident Li Bifeng, who reported the news of the protests in Mianyang and in other cities, is now on the run from the police. In this incident, as in others, workers were merely trying to protect their economic rights, including their right to an "adequate standard of living". Because they were prevented from exercising their rights to freedom of expression, asociation and assembly, and owing to the limitations imposed on freedom of the press, they had no option but to resort to street protests to push their demands.

4. Since the economic reforms began, social organizations have increasingly played a vital role in filling the gaps in areas where the Chinese State is no longer able or willing to cope with social needs and demands, especially as the State proceeds to dismantle the social safety net that used to protect urban China's residents. For example, local branches of the All-China Federation of Trade Unions have increasingly taken on welfare functions. Certain initiatives by social groups reflect the aspirations of Chinese people for autonomy as well as their growing engagement in social endeavours. Yet the Chinese authorities allow virtually no space for independent, public advocacy on social, political, environmental, economic and religious issues. Even humanitarian efforts have been blocked. For example, the provision of humanitarian relief to the families of political prisoners and those killed in the 1989 Beijing Massacre have been labelled part of a "conspiracy to subvert the Government". No organization may technically operate without being formally registered. Such registration requires prior approval from a "sponsoring unit" that must be a government or Party department. The Party-State continues to view social groups as a "transmission belt" for its policies rather than as autonomous social actors that can monitor Government or represent vulnerable sectors of society.

5. In particular, the Chinese authorities fail to observe article 8 of the ICESCR which sets forth the "right of everyone to form trade unions and join the trade union of his choice". In practice, efforts at establishing independent trade unions, outside the official All-China Federation of Trade Unions (designated as a sole legal representative of Chinese workers to which all labour organizations must be affiliated), have often led to Government reprisals. Hundreds of individuals are currently serving prison terms or administrative sentences under "Re-education Through Labour" for attempting to organize labour-related associations. For example, shortly after it had applied for official registration in 1994, the League for the Protection of the Rights of the Working People (LPRWP) was banned and its key members arrested. This organization aimed to address the plight of workers in all sectors and called for the establishment of legal safeguards for workers' rights, as well as for the right to set up independent organizations. Zhou Guoqiang, a founding member of the League, was accused of "collaborating with hostile organizations and elements both inside and outside the country to carry out anti-government activities", and he was sentenced to three years of Re-education Through Labour, an administrative penalty which was judged "inherently arbitrary" by the Working Group on Arbitrary Detention in 1993. It was imposed by the police without any recourse to judicial process.

6. In 1997 in their petitions Chinese dissidents echoed the demands of millions of impoverished workers, peasants and retirees. Their efforts to raise such concerns have been met by repression. In a letter to President Jiang Zemin, Anhui dissidents Shen Liangqing and Zhang Lin called for the release of the workers detained in the Mianyang protests, an investigation into the event, improvements to the welfare system and measures to fight official corruption. Zhang Lin, who was released last June from three years of "Re-education Through Labour", is currently in exile, while Shen Liangqing, a former public prosecutor, spent a month and a half in detention without being arrested nor tried. Liu Nianchun, also a founding member of the LPRWP, spent one year in incommunicado detention and was then

sentenced to three years of Re-education Through Labour following his leading role in the 1995 petition campaign. One of the key petitions of that year advocated greater tolerance for those who hold different opinions, and called for a reassessment of the "counter-revolutionary" verdict on the 1989 pro-democracy movement. When Liu Nianchun protested after his sentence was extended in June 1997 on the grounds that he had failed to "reform himself", camp authorities beat him up and put him into solitary confinement. Liu Nianchun's health deteriorated as a result of beatings, poor detention conditions and lack of medical care. A long-time advocate for democracy and human rights, Liu Nianchun began expressing his views publicly during the Democracy Wall movement of the late 1970s.

7. The authorities frequently justify restrictions on the rights to freedom of expression, association and assembly in the name of protecting "State security". Yet the term "State security", and what constitutes harm to it, is left virtually undefined in the relevant laws and regulations. Although the Constitution prescribes that the citizens of the People's Republic of China enjoy the rights to freedom of expression, association and assembly, in practice, the law allows for extensive restrictions. In the past, the primary instrument used to suppress these rights was the section of the Criminal Code dealing with "counter-revolution". While revisions to the Criminal Code enacted in 1997 replaced crimes of "counter-revolution" with those of "endangering State security", officials stated clearly that this change was merely one of terminology and thus the new legal provisions are just as vague and expansive as the old ones. Another law affecting these three fundamental freedoms is the 1992 State Security Law, the Implementation Regulations of which prohibit people from "endangering" State security under the "pretext" of establishing social groups, among other things.

8. Among examples of how the concept of "State security" is used as a legal basis to curb the rights to freedom of expression and association is the case of former student leader Wang Dan, who was found guilty of "plotting to overthrow the Government" and sentenced to 11 years' imprisonment in a 1995 trial. Among those serving the longest prison terms in China today are labour and democracy activists who were sentenced for "counter-revolutionary" crimes: Hu Shigen (20 years), Kang Yuchun (17 years) and Liu Jingsheng (15 years). They and their colleagues, who came to be known as the "Beijing Fifteen" were the largest group of labour and democracy activists to be tried since the prosecution of those involved in the 1989 demonstrations. The "crimes" of the Beijing Fifteen included trying to set up various organizations, such as the "Free Labour Union of China" and the "Liberal Democratic Party".

9. FIDH and HRIC welcome the release of China's best-known dissident, Wei Jingsheng, who has spent a total of 19 years behind bars since his involvement in the Democracy Wall movement. However FIDH and HRIC strongly protest against the fact that Wei Jingsheng was forced into exile as a condition for his release from prison. Sending one more dissident into exile does not represent an improvement in China's human rights situation. Hundreds of other Chinese citizens who have done nothing more than exercise their fundamental rights to freedom of expression, association and assembly have been forced to flee repression abroad. FIDH and HRIC strongly believe that

Wei Jingsheng and all those who advocate dissenting opinions should be free to speak in their own country. They urge the Government of China to allow all Chinese citizens living in forced exile to return to China.

10. The Vienna Declaration sets forth that "All human rights are universal, indivisible and interdependent and interrelated and that the international community must treat human rights globally in a fair and equal manner, on the same footing." FIDH and HRIC urge the Chinese Government to ratify both the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, and to implement in practice the provisions of these two instruments. FIDH and HRIC call on the Government of China to release immediately and unconditionally all prisoners of conscience and to allow all Chinese citizens to fully enjoy their rights to freedom of speech, assembly and association.

11. Finally, FIDH and HRIC recommend that the members of the Commission enact a resolution on the human rights situation in China which addresses concerns including those listed above and requests that the Secretary-General of the United Nations draft a report on the human rights situation in China, to be presented at the next session of the Commission on Human Rights.